



## Delay of Closure for RCRA Hazardous Waste Management Facilities

**BACKGROUND:** Owners/operators of hazardous and radioactive mixed waste (RMW) management facilities must perform closure in accordance with applicable closure regulations and facility-specific closure plans. The closure regulations impose deadlines for the notification of closure; for the treatment, removal, or on-site disposal of waste; and for the completion of partial and final closure.

On August 14, 1989, the Environmental Protection Agency (EPA) published final regulations allowing hazardous waste landfill, surface impoundment, and land treatment units meeting the criteria described below to delay closure to receive non-hazardous waste [54 FR 33376 et seq., August 14, 1989]. Prior to the promulgation of these requirements, all owners/operators were required to complete closure activities within 90 days of receiving the final volume of hazardous waste, unless they were granted an extension.

Owners/operators delaying closure to accept non-hazardous waste are still required to operate under applicable hazardous waste treatment, storage, and disposal facility (TSDF) regulations for permitted (40 CFR 264) or interim status (40 CFR 265) facilities. This Information Brief describes the circumstances under which owners/operators of hazardous waste management facilities may delay closure to receive non-hazardous waste after the receipt of the final volume of hazardous waste.

The revised Federal standards are applicable in States that are not authorized to carry out the RCRA program. States that are authorized to carry out the RCRA program may adopt equivalent regulations under State law. However, because these standards reduce the scope of the existing Federal requirements, authorized States are not required to adopt equivalent regulations [54 FR 33393, August 14, 1989].

**STATUTE:** The Resource Conservation and Recovery Act (RCRA).

**REGULATIONS:** 40 CFR 264.113 and 265.113.

**REFERENCES:** 1. "Delay of Closure for Hazardous Waste Management Facilities," Final Rule, 54 FR 33376 et seq., August 14, 1989.  
2. "Closure of Hazardous and Mixed Radioactive Waste Management Units at DOE Facilities," EH-231 Guidance Manual, DOE/EGD-RCRA-002/0690, June 1990.  
3. "Delay of Closure Period for Hazardous Waste Management Facilities," EH-231 Memorandum, May 24, 1990.

### Which types of waste management facilities can delay closure and accept non-hazardous waste?

Owners/operators of permitted and interim status landfill, land treatment, and surface impoundment units that are in compliance with applicable regulations may delay closure to receive non-hazardous waste after receipt of the final volume of hazardous waste [40 CFR 264.113(d) and 265.113(d)]. The option to delay closure and accept non-hazardous waste, however, does not extend to storage or treatment tanks, container storage areas, waste piles, or incinerators. Owners/operators of such units must first comply with closure requirements if they wish to receive non-hazardous waste after receipt of the final volume of hazardous waste [54 FR 33381, August 14, 1989].

### What are the general conditions under which facilities may delay closure to accept non-hazardous waste?

Permitted landfill, surface impoundment, and land treatment units may delay closure to accept non-hazardous waste if the owner/operator requests a Class 2 RCRA permit modification at least 120 days prior to receipt of the known final volume of hazardous waste [40 CFR 264.113(d)(4)]. (Class 2 modifications are used to make a change in the type or quantity of waste managed under a facility permit.)

The permit modification request must demonstrate that:

- ☐ the unit has the existing design capacity (as indicated on the Part A application) to receive non-hazardous solid waste;



- ❑ there is a reasonable likelihood that the owner/operator will receive non-hazardous waste in the unit within 1 year after receipt of the final volume of hazardous wastes;
- ❑ the non-hazardous waste will not be incompatible with any remaining wastes in the unit, facility design, or operating requirements of the unit or facility;
- ❑ closure of the hazardous waste management unit would be incompatible with continued operation of the unit or facility; and
- ❑ the owner/operator is operating and will continue to operate in compliance with all applicable permit requirements [40 CFR 264.113(d)(1)(i) - (vi)].

The permit modification request must also be accompanied by revisions to the waste analysis plan, ground-water monitoring and response program, human exposure assessment, closure and post-closure plans, and any other portions/conditions of the permit affected by the owner's/operator's decision to delay closure to receive non-hazardous waste [40 CFR 264.113(d)(2) - (3)].

Owners/operators of interim status landfill, surface impoundment, and land treatment units wanting to delay closure to accept non-hazardous waste must submit an amended Part B permit application (or a Part B application if one has not been previously submitted) at least 180 days prior to receipt of the final volume of hazardous waste. The facility owner/operator must make the same demonstrations, described above, as for permitted facilities and revise the proposed waste analysis plan, ground-water monitoring and response program, human exposure assessment, closure and post-closure plans, and other relevant parts of the permit application to reflect changes resulting from the owner's/operator's decision to delay closure and receive non-hazardous waste [40 CFR 265.113(d)(2)-(3)].

Permitted and interim status units may receive non-hazardous waste during the time when the permit modification request/modified RCRA Part B permit application is under review [54 *FR* 33392, August 14, 1989].

#### **Are there additional requirements applicable to hazardous waste surface impoundments not meeting the minimum technological requirements specified in Section 3004(0) of RCRA?**

Owners/operators of surface impoundments not meeting the minimum technological requirements specified in Section 3004(0) of RCRA may delay closure to receive non-hazardous waste as long as they meet the additional requirements of 264.113(e) for permitted facilities and 265.113(e) for interim status facilities. These regulations require owners/operators to:

- ❑ submit, with the permit modification request, a contingent corrective measures plan and a plan for removing hazardous waste from the unit;

- ❑ remove all hazardous waste from the unit by extracting all hazardous liquids and all hazardous sludges to the extent practicable without impairing the integrity of any liners;
- ❑ in the event of a statistically significant release of hazardous waste, or a release exceeding the facility's ground-water protection standard at the point of compliance (as specified in the facility's permit) [264.113(e)(4)(i)-(iii)]:
  - implement corrective measures in accordance with the approved corrective measures plan,
  - demonstrate that the continued receipt of waste will not impede corrective action, and
  - implement corrective action or cease receiving waste in accordance with requirements established by the regulator;
- ❑ report to the regulator on the progress of corrective action, if applicable, semi-annually [264.113(e)(5)]; and
- ❑ commence closure in accordance with the expedited procedures established in 40 CFR 264.113(e)(7) for permitted facilities and 40 CFR 265.113(e)(7) for interim status facilities, if ordered by a regulator [40 CFR 264.113(e)(6)J].

During the period of corrective action, the owner/operator is required to compile ground-water monitoring data to evaluate the effect of the continued receipt of non-hazardous wastes on the effectiveness of corrective action [40 CFR 264.113(e)(5)].

#### **How are hazardous and radioactive mixed waste (RMW) management units that delay closure to accept non-hazardous waste regulated?**

Hazardous and RMW management units that delay closure to accept non-hazardous waste remain regulated under Subtitle C of RCRA. RMW management units that remain open to accept low-level radioactive waste also remain subject to the applicable requirements of the Atomic Energy Act.

#### **Under what circumstances must closure be initiated?**

Closure must be initiated when a request to delay closure to manage non-hazardous waste is denied the facility's permit is terminated or revoked, the facility is in interim status and a RCRA permit is denied, or the facility loses interim status for any reason [54 *FR* 33379, August 14, 1989].

**Questions of policy or questions requiring policy decisions will not be dealt with in EH-231 Information Briefs unless that policy has already been established through appropriate documentation. Please refer any questions concerning the subject matter covered in this information Brief to Jerry Coalgate, RCRA/CERCLA Division, EH-231, 202-586-6075.**

